



[BILLING CODE 4810-33-P]

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities

Proposed Information Collection; Submission for OMB Review

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comment concerning its extension, without change, of an information collection titled “Debt Cancellation Contracts and Debt Suspension Agreements – 12 CFR 37.” In addition, the OCC is giving notice that it has submitted the collection to OMB for review.

DATES: You should submit written comments by: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mail Stop 2-3, Attention: 1557-0224, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-5274, or by electronic mail to regs.comments@occ.treas.gov.

You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-4700. Upon arrival, visitors will be

required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, please send a copy of your comments to OCC Desk Officer, 1557-0224, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Ira L. Mills or Mary H. Gottlieb, OCC Clearance Officers, (202) 874-6055 or (202) 874-5090, Legislative and Regulatory Activities Division (1557-0202), Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

The OCC is proposing to extend OMB approval of the following information collection:

Title: Debt Cancellation Contracts and Debt Suspension Agreements.

OMB Control No.: 1557-0224.

Description: This submission covers an existing regulation and involves no change to the regulation or the information collection. The OCC requests that OMB approve its revised estimates and renew its approval of the information collection. The estimates have been revised to reflect the current number of national banks.

The regulation requires national banks to disclose information about a Debt Cancellation Contract (DCC) or Debt Suspension Agreement (DSA). The short form disclosure usually is made orally and is issued at the time the bank first solicits the purchase of a contract. The long form disclosure usually is made in writing and is issued before the customer completes the purchase of the contract. There are special rules for transactions by telephone, solicitations using written mail inserts or “take one” applications, and electronic transactions. Part 37 provides two

forms of disclosure that serve as models for satisfying the requirements of the rule. Use of the forms is not mandatory. A bank may adjust the form and wording of its disclosures so long as the requirements of the regulation are met.

12 U.S.C. 24 (Seventh) authorizes national banks to enter into DCCs and DSAs. The requirements of part 37 enhance consumer protections for customers who buy DCCs and DSAs from national banks and ensure that national banks provide these products in a safe and sound manner by requiring them to effectively manage their risk exposure.

Section 37.6

Section 37.6 and Appendices A and B to part 37 require a bank to provide the following disclosures, as appropriate:

- Anti-tying —A bank must inform the customer that purchase of the product is optional and neither its decision whether to approve the loan nor the terms and conditions of the loan are conditioned on the purchase of a DCC or DSA.
- Explanation of debt suspension agreement—A bank must disclose that if a customer activates the agreement, the customer's duty to pay the loan principal and interest is only suspended and the customer must fully repay the loan after the period of suspension has expired.

- Amount of the fee—A bank must make disclosures regarding the amount of the fee.

The disclosure must differ depending on whether the credit is open-end or closed-end. In the case of closed-end credit, the bank must disclose the total fee. In the case of open-end credit, the bank must either disclose that the periodic fee is based on the account balance multiplied by a unit cost and provide the unit cost, or disclose the formula used to compute the fee.

- Lump sum payment of fee—A bank must disclose, where appropriate, that a customer has the option to pay the fee in a single payment or in periodic payments. This disclosure is not appropriate in the case of a DCC or DSA provided in connection with a home mortgage loan since the option to pay the fee in a single payment is not available in that case. Banks are also required to disclose that adding the fee to the amount borrowed will increase the cost of the contract.
- Lump sum payment of fee with no refund—A bank must disclose that the customer has the option to choose a contract with or without a refund provision. This disclosure also states that prices of refund and no-refund products are likely to differ.
- Refund of fee paid in lump sum—If a bank permits a customer to pay the fee in a single payment and to add the fee to the amount borrowed, the bank must disclose the bank's cancellation policy. The disclosure informs the customer of the bank's refund policy, as applicable, *i.e.*, that the DCC or DSA: (i) may be canceled at any time for a refund; (ii) may be cancelled within a specified number of days for a full refund; or (iii) may be cancelled at any time with no refund.
- Whether use of credit line is restricted—A bank must inform a customer if the customer's activation of the contract would prohibit the customer from incurring additional charges or using the credit line.
- Termination of a DCC or DSA— If termination is permitted during the life of the loan, a bank must explain the circumstances under which a customer or the bank could terminate the contract.
- Additional disclosures—A bank must inform consumers that it will provide additional information before the customer is required to pay for the product.

- Eligibility requirements, conditions, and exclusions—A bank must describe any material limitations relating to the DCC or DSA.

The content of the short and long form may vary, depending on whether a bank elects to provide a summary of the conditions and exclusions in the long form disclosures or refer the customer to the pertinent paragraphs in the contract. The short form requires a bank to instruct the customer to read carefully both the long form disclosures and the contract for a full explanation of the terms of the contract. The long form gives a bank the option of either separately summarizing the limitations or advising the customer that a complete explanation of the eligibility requirements, conditions, and exclusions is available in the contract and identifying the paragraphs where a customer may find that information.

Section 37.7

Section 37.7 requires a bank to obtain a customer's written affirmative election to purchase a contract and written acknowledgment of receipt of the disclosures required by § 37.6.

If the sale of the contract occurs by telephone, the customer's affirmative election to purchase and acknowledgment of receipt of the required short form may be made orally, provided the bank maintains sufficient documentation to show that the customer received the short form disclosures and then affirmatively elected to purchase the contract; mails the affirmative written election and written acknowledgment, together with the long form disclosures required by section 37.6, to the customer within 3 business days after the telephone solicitation, and maintains sufficient documentation to show it made reasonable efforts to obtain the documents from the customer; and permits the customer to cancel the purchase of the contract without penalty within 30 days after it mailed the long form disclosures to the customer.

If the contract is solicited through written materials such as mail inserts or "take one"

applications and the bank provides only the short form disclosures in the written materials, then the bank shall mail the acknowledgment, together with the long form disclosures, to the customer. The bank may not obligate the customer to pay for the contract until after the bank has received the customer's written acknowledgment of receipt of disclosures, unless the bank takes certain steps, maintains certain documentation, and permits the customer to cancel the purchase within 30 days after mailing the long form disclosures to the customer. The affirmative election and acknowledgment may also be made electronically.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Number of Respondents: 1,650.

Total Annual Responses: 1,650.

Frequency of Response: On occasion.

Total Annual Burden Hours: 39,600.

A 60-day Federal Register notice was issued on June 28, 2011 regarding renewal of this collection. 76 FR 37889. One comment was received from a service provide, which supported the renewal of the information collection. Comments continue to be invited on:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- (b) The accuracy of the agency's estimate of the burden of the collection of information;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

DATED: November 8, 2011

Michele Meyer
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